

A memorial of the Governor and Legislative Council of Florida, before adopted by the House of Representatives, was again read, and referred to the committee on the State of the Territory.

A bill to be entitled "An Act concerning Roads, Highways, and Ferries," was again read, ordered printed, and made the order of Tuesday week.

A bill to be entitled "An Act to organize and regulate the militia of the Territory of Florida, and to repeal all former acts in relation to the same," was again read, and ordered for to-morrow.

Mr. Pelot moves that the 21st, 22d, and 23d rules be rescinded so far as they relate to secret session, or closed doors, which was read.

The Senate received from his Excellency the Governor a message, which was laid on the table.

On motion, the Senate adjourned until to-morrow.

TUESDAY, January 25th, 1842.

The Senate met pursuant to adjournment.

Mr. McLean gives notice that he will on some future day introduce a bill to be entitled "An Act to amend an act to suppress the issuing or circulating of Change-bills, and for other purposes," approved Feb. 11th, 1838.

Mr. Brockenbrough offered the following resolution :

Resolved, That the Committee on Finance be instructed to report a bill requiring the payment of all taxes, fines, and other dues to the Territory, in specie, or such funds as are receivable by the receiving officers of the United States, or Auditor's warrants only. Which was read.

Mr. Brockenbrough offered the following

PREAMBLE AND RESOLUTIONS

In reply to certain demands made upon the Governor and Legislative Council, for interest said to be due upon certain obligations guaranteed by the Territory of Florida.

WHEREAS the Congress of the United States, acting by authority of the Constitution of the United States, the fourth article of which gives Congress "power to dispose of, and make all needful rules and regulations respecting the territory or other property belong-

ing to the United States," has passed laws from time to time, organizing and constituting the Territorial government of Florida, by virtue of which laws only the people of Florida have hitherto held and enjoyed a political existence and organized government;—and whereas, by such organic laws a Legislative Council has been established, the members of which are *elected by the people of Florida*, with power to pass laws for the government of the Territory, extending to "*all rightful subjects of legislation*," which laws are to be of full force after their passage (and the sanction of the governor, or the passage by a vote of two-thirds without his sanction,) unless annulled by an act of Congress :

And whereas, the people of Florida have expressly and tacitly, collectively and individually acquiesced in and sanctioned such government,—by voting for its officers—by resorting to its tribunals—by relying upon its guarantees for the protection of life and property—by general obedience to its mandates and the punishment of those who violate its laws—and, lastly, by living and acting under its authority, without rebellion, revolution, or the establishment of any other form of government :

And whereas, the said Legislative Council, at the instance principally, of the people of *Middle Florida*, did in the year 1833 pass an act entitled "An Act to incorporate the subscribers to the Union Bank of Florida," by which act the Governor was required to sign, seal and deliver to the said Union Bank of Florida, (when certain bonds and mortgages were executed,) the bonds of the Territory, first for one million, and subsequently for two more millions of dollars, for the purpose of being sold to raise the capital stock of that bank, which act was permitted to pass and became a law, and was duly published and carried into full effect without remonstrance from the people of Florida or application to Congress to annul the same under its reserved power, and which act has since been re-sanctioned by amendments passed in 1835, in 1836 and in 1839,—by receiving and publishing the annual statements of said Bank, as required by said act—by appointing committees to examine the affairs of said Bank under the authority of said act—by the annual appointment of government directors, appointed by virtue of said act—and by permitting said Bank to continue to exercise corporate functions and sue and be sued, as a body corporate, under authority of said act :

And whereas the said Legislative Council did, in the year 1835, pass an act entitled "An act to increase the capital of the Bank of Pensacola, and to amend the laws incorporating said Bank, for other purposes," principally at the solicitation of the *people and representatives of West Florida*, by which said act the said Bank of Pensacola was authorized to subscribe for certain Railroad stock, and to enable it so to do, to make its bonds for five hundred thousand dollars payable to the Territory of Florida; and upon said bonds, when satisfied of the subscription for said stock, the Governor was required to endorse an assignment and guarantee in favor

of the charter thereof, under the seal of the Territory, which said act was likewise passed into a law, published, and carried into effect without remonstrance by the people of Florida, or application to Congress to annul the same, and was further sanctioned by an act of amendment in 1838, and by the other modes by which the charter of said Union Bank has been sanctioned:

And whereas the said Legislative Council did, in 1835, principally at the solicitation of the people and representatives from East Florida, pass an act entitled "An act to incorporate the Southern Life Insurance and Trust Company," by which said act the said Company was authorized to issue certificates of one thousand dollars, bearing not more than six per cent. interest, redeemable within the range and limit of the charter, at such times as the Governor and Company might agree upon, and present the same to the Governor or acting Governor of this Territory, whose duty it should be to endorse thereon "Endorsed by the Territory of Florida," and sign his name and title of office thereto, and return the same to said company; and the faith of the said Territory was thereby pledged as security for said company, for the faithful payment of such certificates, according to the tenor and effect of the same; the amount of which certificates was only limited by the amount of debts under mortgage to the company at the time of making application, to be secured after the mode and in conformity to the manner pointed out in the sixth section of said act:

And whereas said act was permitted to pass into a law, be published, and acted upon without remonstrance or petition to Congress to annul the same, and was again sanctioned by amendment in 1837 and 1838, and by the other modes mentioned with regard to the Union Bank of Florida; and certain certificates have been endorsed and sold under said acts last mentioned:

And whereas the Legislative Council, in 1838, passed an act entitled "An act to call a convention for the purpose of organizing a State Government," and said Convention, elected under said law, met in conformity thereto, at the place and day appointed, and did frame "a constitution or form of government for the people of Florida," in which it is declared that "the General Assembly (under that Constitution) shall not pledge the faith and credit of the state to raise funds in aid of any corporation, whatever," and it is further declared, that "the General Assembly shall, in its first session, have power to regulate, restrain and control all associations claiming to exercise corporate privileges in the state, so as to guard, protect and secure the interests of the people of the state, not violating vested rights, or impairing the obligation of contracts;" and thus again sanctioned, in another form, the obligations then existing:

And whereas said convention, assuming, as it well might, though elected for a specific purpose, to speak the sentiments of the people of Florida upon important questions of general interest, expressly refused to pass various resolutions and propositions introduced, declaring the bonds and guarantees before issued, or that might be

issued, null and void, or to repudiate the same,—but, on the contrary, passed a certain preamble and resolution by which the attention of Congress was requested, and its aid invoked, “in the passage of a law to remedy, as far as practicable, the evils that had already resulted from the improvident and injudicious acts of the Territorial Legislature, and to prevent the disastrous consequences which it was apprehended might ensue from the same cause; and (stated) *that whilst that Convention would deprecate any course calculated to impair the obligation of contracts; or to weaken the credit or affect injuriously the character and honor of the people of Florida, they yet respectfully insisted that that Honorable body (Congress) would take such action upon this subject by altering, repealing, or amending the charters that had been granted, or by so modifying the same, as would protect the people from further injury; maintain their rights as a free people, and preserve their just interests and privileges*”—thus again sanctioning, in the name of the people of Florida, the inviolability of the faith pledged, and the obligation of the contracts made:

And whereas the said acts have thus received the sanction of the people of Florida, by their representatives, in every form in which they could act, and the sanction of the Government of Florida existing *de facto*, and the only one which ever has claimed to exist, or yet exists, and the same being also the government *de jure*, existing *of right* by the Constitution—the acts of Congress,—and the acquiescence of the people through all time passed, and an ordinance passed by their Convention in which the authority of the same is acknowledged, and its laws continued in force until repealed or altered by the General Assembly of the State; and inasmuch as nations are held bound for acts of aggression or spoliation committed by any government existing *de facto*, however tyrannical or arbitrary such government may be, or however odious or unjust may be the *usurpation* by which such government exists, or however much opposed the nation may have been to such government, or its acts of aggression and spoliation; and inasmuch as the obligations of a people acting by their own representatives, in a government acquiesced in by them, for the loan of money to be expended among them, however injudiciously, seem to present a much higher moral claim. It appears to the members of the present Legislative Council, that a proper respect for themselves, and a due regard for the character of their constituents—the imperative obligations of common honesty—the inviolable sacredness in which the faith and honor of a free people should be held—the blighting effects of infamy, and the scorn of mankind, upon the hopes and destinies of a young Republic, alike require that however limited may be their present resources they should not undertake to declare null, obligations so repeatedly sanctioned; especially when it is considered that those obligations depend only upon honor, and cannot be enforced by law, and that the money borrowed has been used and expended among our own people, and to some extent lost or squandered by the faithlessness or incapacity of

our own agents,—and when it is remembered that the incapacity of this government to bind the people, was unwhispered in the Council, as long as money could be obtained by the pledge,—and it was then held omnipotent to borrow,—and the doctrine that it was powerless to pay, (though still held capable to repudiate in the name of the people) was only heard in indistinct murmurs when the golden stream first ceased to flow, and has only increased to a voice of thunder now since payment is demanded; and that the force and authority of a declaration made by the representatives of the same people, acting under the same organic laws and form of government, to *annul* such obligations, is more than questionable, however potent it may be in shame and mischief; and it may be apprehended that the general opinion of mankind and our sister States might still compel us to bear the burthen of the debt, as well as the humiliation of repudiating it.

And whereas the passage of the Acts in question was a gross abuse of power, in every aspect unwise and unstatesman-like, and in results unfortunate and disastrous, inasmuch as it gave to banks and their stockholders monstrous and dangerous privileges; as it created more bank capital than was, or ever will be, needed in the most prosperous times; as it caused a vast excess of currency to be issued (into few hands and on long credits,) beyond the wants of wholesome trade, which was naturally squandered in wild extravagance, or sunk in visionary speculation; as it violated every principle of sound banking by requiring more money to be loaned on real estate upon long credits, than ever could be done with safety and continue specie payments; as it enabled a favored few to accumulate vast possessions of unproductive property and hold them up at extravagant prices, thereby retarding the growth of the country, and sending the small planters and the hardy pioneers from our doors to seek cheaper lands elsewhere; and as it produced a system of wasteful extravagance and vicious habits, corrupting the tastes and morals of the people, and utterly at war with steady economy and wholesome industry;

It was the duty of Congress, by its prudent care and protective power, to have saved us from the evil effects of the blind, partial, and improvident acts of our deluded or interested representatives, then acting in a single House, and, therefore, more liable to the errors arising from the arts of designing men, or hasty legislation. And although we by no means contend that the failure of Congress to annul those acts ought to add the further burthen of aid to the United States, yet we are of opinion that we have an equitable claim to such aid as Congress may reasonably give when called upon by us for aid in the honest discharge of our obligations.

And whereas the said banks have been grossly mismanaged—have violated their charters—have permitted the public faith to be violated, and placed in jeopardy much of the fund and specie provided to save us harmless; and have failed to furnish a sound currency, but on the contrary, by their long suspension of payments and the excessive depreciation of their money, have paralyzed the

energies of industry, and poisoned every artery of trade, enhancing the evils arising from other causes, and from those which their former lavish liberality produced and fostered :

And whereas, these evils and the misfortunes incident to the long protracted Indian war, and the vast bodies of land held up by speculators, by reservations and by Spanish grantees, have prevented the immigration of new capital and industry into Florida ; and the general prostration of credit incident to the times has produced distrust and put in motion the crushing engines of the law, pulverizing ideal wealth and grinding the substance from our people, chiefly to pay debts abroad, insomuch that it is difficult to meet by taxation, the trivial expenses of our Territorial government, and utterly impossible to lay new burthens upon a country so prostrated by misfortune, whilst its vitals are torn by war, and it is already bleeding at every pore :

And whereas, the genial nature of our climate and the generous character of our soil, together with the native industry and energy of our people, when deprived of unusual and unnatural resources, give us reason to hope and believe that the sun yet shining above the clouds which lower over us, will again shine on us, when the war terminates and when the crisis in our money affairs shall have passed, and the change and division of property and the influx of population and capital incident thereto shall have followed those events, and when the explosion of credit shall have brought our people back from gewgaw finery and idle speculations, to the substantial comforts produced by industry and economy ; and that then, amidst the blessings of peace and abundance of prosperity, a very light taxation will enable us to pay the interest and gradually sink the principal of all the obligations which they will ever, probably, be called upon to pay, after exhausting the securities of the banks :

And whereas, it is our imperative duty to protect the people of Florida and the honest holders of their obligations from loss, by all lawful means,—and it is hoped and believed that a very large amount of the obligations for which the Territory is liable, is abundantly secured, although now in jeopardy, and unavailable to meet present payments, by the mismanagement of the banks :—

Be it therefore resolved—First. That the bonds hitherto issued and the guarantees given to the banks of Florida, are binding upon the people of Florida, in the hands of all lawful holders ; but that, in the present situation of the country, it is impossible for the government of Florida to meet these obligations by taxation or any other means in our power.

Resolved—Secondly. That holders of all such obligations are advised to take active measures against said banks and their stockholders when liable ; to obtain security or payment, and that it is the duty of the Legislative Council to render them all possible aid.

Resolved—Thirdly. That a committee be appointed with instructions to report a bill to provide for the protection and preser-

vation of the securities given for the benefit of the Territory and the bondholders, so as best to secure the interests of both from loss by mismanagement or fraud.

Resolved—Fourthly. That it will be the duty of the legislative power of Florida, under whatever form of government we may then be, to redeem the obligations of this Territory, which shall remain unpaid or unsecured by the securities and effects of said banks or their stockholders, by taxation or such other means as may be under the control of such legislative power.

Resolved—Fifthly. That the Governor be instructed to forward a copy of this Preamble and these Resolutions, as the response of the Legislative Council to the persons demanding payment of interest.

Which was read.

On the question to print 100 copies, the yeas and nays were called by Messrs. English and Cooper, and were—

Yeas—Mr. President, Messrs. Dupont, Edwards, Livingston, McLean and Walker—6.

Nays—Messrs. Berthelot, Cooper, English and Pelot—4.

So the printing was ordered, and said resolutions, &c., made the order for Friday next.

On motion of Mr. English it was ordered that the resolutions on the same subject hitherto offered by Mr. Cooper, be printed on the same paper with the said preamble and resolutions.

Mr. Livingston, from the Committee on the State of the Territory, reported a memorial and resolutions respecting the improvement of the harbour at the mouth of the Apalachicola River, without amendment.

Also, a bill to be entitled An Act for the relief of Jesse Carter, as amended.

Which reports were concurred in.

A bill entitled An Act concerning Public Defaulters, was again read, and copies ordered.

The Senate went into Committee of the whole, Mr. English in the Chair, on a bill to organize and regulate the militia of the Territory of Florida, and to repeal all former acts in relation to the same. After some time the Committee rose and reported progress, and asked leave to sit again, which was granted.

The resolution of Mr. Pelot in relation to rescinding the rule for secret sessions was again read, on its passage the yeas and nays were called by Messrs. Pelot and Cooper, and were—

Yeas—Messrs. Berthelot, Cooper, English and Pelot—4.

Nays—Mr. President, Messrs. Dupont, Edwards, Livingston, McLean and Walker—6.

So the resolution was lost.

The Senate went into committee of the whole on a bill to prevent the future migration of free negroes and mulattoes to this Territory, Mr. Edwards in the Chair. After some time the committee rose and reported said bill as amended. Which was received, and

said amendments concurred in. Said bill was made the order for Saturday.

The Senate received from the House of Representatives a preamble and resolution in relation to the Commissioners on Indian depredations, which was read.

Also, a resolution respecting a revision of the Laws, which was read, and laid on the table.

A memorial of the Governor and Legislative Council of Florida was read, and adopted.

A bill to be entitled An Act for the relief of Jesse Carter, late Tax Collector of Alachua County, was again read.

The Senate went into secret session on certain nominations of his Excellency the Governor.

On motion, the Senate adjourned until to-morrow.

WEDNESDAY, January 26, 1842.

The Senate met pursuant to adjournment.

Mr. Cooper offered the following preamble and resolution:

WHEREAS the conduct of Col. William S. Harney, of the United States Army, while in Florida, won for him in a high degree the confidence of the people of Florida, and his withdrawal from Florida is greatly regretted by them, and his return to this Territory, in his proper command, would give general satisfaction—

Be it therefore resolved, by the Senate and House of Representatives of the Territory of Florida, That the Honorable the Secretary of War be respectfully requested, if consistent with the public interest, and if agreeable to Col. Harney, to order that officer to this Territory, and give him a command suitable to his rank; and that a copy of this preamble and resolution be sent to the Delegate in Congress forthwith, and that he be requested to lay the same before the Secretary of War.

Which was read.

Mr. Dupont, from the Committee on Judiciary, reported a bill to be entitled "An Act to amend an act to provide for the collection of Rents," approved Nov. 21st, 1828, amended, which report was received, and said bill ordered for to-day.

A resolution offered on yesterday, giving certain instructions to the committee on Finance, was again read and adopted.

The Senate went into committee of the whole, Mr. McLean in the Chair, on a bill to be entitled "An Act concerning Public Defaulters." After some time, the committee rose, and reported said bill amended, which report was received; and on the question of concurring in it, the yeas and nays were called by Messrs. Cooper and English, and were—

Yeas—Mr. President, Messrs. Berthelot, Dupont, Edwards, Livingston, McLean, Pelot, and Walker—8.

Nays—Messrs. Cooper and English—2.